IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE ELEVENTH DAY OF APRIL
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE K.C. BHANU

WRIT PETITION NO : 7998 of 2005

Between:

S. Baleswaraiah E. 280603 conductor, S/o Buddanna,
R/o Shadnagar, Mahaboobnagar District

..... PETITIONER

AND

1 The APSRTC., rep by Managing Director, Musheerabad, Hyderabad
2 The Depot Manager, APSRTC., Shadnagar Depot, Shadnagar, Mahaboobnagar District
3 The Assistant Manager (Enquiries), APSRTC., O/o the Regional Manager, Mahaboobnagar Region, Mahaboobnagar District

.....RESPONDENT(S)

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an order or direction more particularly one in the nature of Writ of Mandamus declaring the action of the respondents rejecting the request of the petitioner seeking assistance of an Advocate in the domestic enquiry and conducting the exparte enquiry as unjustified, arbitrary, discriminatory, unreasonable and against the principles of natural justice and violative to Art. 14 and 21 of the Constitution of India, Consequently direct the respondents to set a side the proceedings No. 02/95(41)/2004-SDNR dt 19-3-2005 issued by the 2nd respondent.

Counsel for the Petitioner:MR.S.A.K.MYNUDDIN

Counsel for the Respondent Nos.1 to 3: MR.P.VINAYAKA SWAMY (SC FOR APSRTC)

The Court at the admission stage made the following O R D E R:

This writ petition is filed to declare the action of the respondents in rejecting the request of the petitioner seeking assistance of an Advocate in the domestic enquiry and conducting *ex parte* enquiry as illegal and arbitrary.

Learned counsel for the petitioner contended that though the department was being represented by a counsel, the petitioner was not given opportunity to defend his case by engaging a counsel and, therefore, it amounts to violation of principles of natural justice. He further contended that the petitioner could not attend the enquiry fixed on 25.01.2005 because of Bandh and *ex parte* enquiry was conducted. Hence, he prays to allow the writ petition.

Learned standing counsel appearing for the respondents opposed the same on the ground that the petitioner did not participate in the enquiry conducted on 25.01.2005 and, therefore, *ex parte* enquiry was conducted. Hence, petitioner cannot seek direction for engaging a counsel.

The law is no longer *res integra* for appointment of a counsel for conducting of departmental enquiry. A delinquent has no right to seek for appointment of a counsel to defend his case. There is no allegation in the affidavit to show that a legally trained person or an advocate is being represented on behalf of the department to conduct enquiry. So also, no regulation is brought to the notice of this Court that a counsel can be appointed to defend in the departmental enquiry. The petitioner, therefore, cannot have any right to seek for appointment of a counsel to conduct the case. In the absence of any rules for appointment of an advocate in the domestic enquiry, petitioner cannot seek any relief. No doubt, the circumstances are beyond the control of the petitioner, but that cannot be a ground to reopen the enquiry. However, if the petitioner satisfies the disciplinary authority that he was not in a position to attend the

enquiry, appropriate decision has to be taken by the disciplinary authority for ordering *de novo* enquiry.

The writ petition is devoid of merits and is dismissed at the stage of admission. However, the respondents are directed to pass appropriate orders duly taking note of the representation made by the petitioner. No order as to costs.

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(K.C.BHANU,J)

Dt: 11th April, 2005

usd

To

1 The APSRTC., rep by Managing Director, Musheerabad, Hyderabad
2 The Depot Manager, APSRTC., Shadnagar Depot, Shadnagar, Mahaboobnagar District
3 The Assistant Manager (Enquiries), APSRTC., O/o the Regional Manager, Mahaboobnagar Region, Mahaboobnagar District

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